

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Antoine Bernard Sellers,)	Case No.: 0:24-cv-06812-JD-PJG
)	
Petitioner,)	
)	
vs.)	
)	ORDER AND OPINION
United States,)	
)	
Respondent.)	
)	

This matter is before the Court on the Report and Recommendation (“Report”) of United States Magistrate Judge Paige J. Gossett (DE 22), issued pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). The Report addresses the Motion to Dismiss or, in the alternative, for Summary Judgment (DE 14) filed by Respondent United States (“Respondent”), seeking dismissal of the habeas petition (DE 1) filed by Petitioner Antonio Bernard Sellers (“Petitioner” or “Sellers”) pursuant to 28 U.S.C. § 2241.¹

A. Background

The Report accurately sets forth the relevant factual background and applicable legal standards, which the Court adopts and incorporates herein. A brief summary is provided for context.

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

At the time the petition was filed, Petitioner was incarcerated at the Federal Correctional Institution in Bennettsville, South Carolina. Petitioner alleges that the Bureau of Prisons (BOP) failed to properly apply his earned time credits under the First Step Act. (DE 1 at 7.) As relief, he seeks application of those credits toward placement in an AIG program, home confinement, or a residential reentry center. (Id.)

On February 3, 2025, Respondent filed the instant motion to dismiss or, in the alternative, for summary judgment. (DE 14.) On the same day, the Court issued an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising Petitioner of the applicable procedures and potential consequences should he fail to respond. (DE 15.) Despite the clear warning in the *Roseboro* order, Petitioner failed to respond. In consideration of his *pro se* status, the Court issued a second order on March 10, 2025, granting an additional fourteen (14) days to file a response and again advising that failure to do so could result in dismissal for failure to prosecute. (DE 19.) Petitioner did not respond.

B. Report and Recommendation

On March 10, 2025, Magistrate Judge Gossett issued the Report recommending dismissal of the petition pursuant to Rule 41(b) of the Federal Rules of Civil Procedure based on Petitioner's failure to prosecute and to comply with court orders. (DE 22.) No objections to the Report have been filed.

C. Legal Standard

In the absence of objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). The Court must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

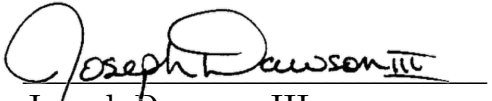
D. Conclusion

Having conducted a thorough review of the Report and the record, and finding no clear error, the Court adopts the Report (DE 22) and incorporates it herein by reference.

Accordingly, it is **ORDERED** that Petitioner’s § 2241 Petition (DE 1) is **DISMISSED** with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute and failure to comply with a court order.

It is further **ORDERED** that a certificate of appealability is **DENIED**, as Petitioner has not made a substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.


Joseph Dawson, III
United States District Judge

Florence, South Carolina
June 13, 2025

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order within sixty (60) days from this date under Rules 3 and 4 of the Federal Rules of Appellate Procedure.